

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
CHICAGO DIVISION**

**In re:**

**Yashica L. Spellman**

**Debtor.**

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**Case No.: 16-27238**

**Chapter 13**

**Judge Carol A. Doyle**

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**NOTICE OF MOTION**

**Notified via Electronic Filing**

U.S. Trustee, Patrick S. Layng,  
Office of the United States Trustee, Region 11,  
219 S. Dearborn Street, Room 873  
Chicago, IL 60604

Tom Vaughn  
55 E. Monroe Street  
Suite 3850  
Chicago, IL 60603

David H. Cutler  
Attorney for Yashica L. Spellman  
4131 Main St.  
Skokie, IL 60076  
cutlerfilings@gmail.com

**Notified via US Postal Service**

Yashica L. Spellman  
1218 S Sawyer  
Chicago, IL 60623

Yashica L. Spellman  
1218 S Sawyer Avenue  
Chicago, IL 60623

Please take notice that on February 21, 2017, at 9:15 a.m., or as soon thereafter as I may be heard, I shall appear before the Honorable Judge Carol A. Doyle, 219 South Dearborn, 742, Chicago, IL, 60604 or before any other Bankruptcy Judge who may be presiding in his/her place

and stead and shall then and there present the accompanying motion. At that time and place you may attend if you so choose.

**AFFIDAVIT OF SERVICE**

The undersigned, an attorney, hereby certifies that I have served a copy of this Notice along with the attached motion upon the parties listed above, by causing same to be mailed in a properly addressed envelope, postage prepaid, on 10th day of February, 2017, unless a copy was provided electronically by the Clerk of the Court.

Date February 10, 2017

/s/ Sarah E. Barngrover  
Signature

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Notice of Motion was served on the parties listed below via e-mail notification:

U.S. Trustee, Patrick S. Layng, Office of the United States Trustee, Region 11, 219 S. Dearborn Street, Room 873, Chicago, IL 60604

Tom Vaughn, 55 E. Monroe Street, Suite 3850, Chicago, IL 60603

David H. Cutler, Attorney for Yashica L. Spellman, 4131 Main St., Skokie, IL 60076, cutlerfilings@gmail.com

The below listed parties were served via regular U.S. Mail, postage prepaid, on February 10, 2017:

Yashica L. Spellman, 1218 S Sawyer, Chicago, IL 60623

Yashica L. Spellman, 1218 S Sawyer Avenue, Chicago, IL 60623

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/s/ Sarah E. Barngrover

**UNITED STATES BANKRUPTCY COURT  
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: **Chapter 13**  
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: \*\*\*\*\*  
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**MOTION FOR RELIEF FROM THE AUTOMATIC STAY (FIRST MORTGAGE)**

Lakeview Loan Servicing, LLC ("Creditor"), hereby moves the Court ("Motion"), pursuant to 11 U.S.C. § 362(d) to lift the automatic stay as to real property commonly referred to as 1218 S Sawyer Avenue, Chicago, IL 60623 ("Property"). In support of the Motion, the Creditor states the following:

1. This Court has jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334 and General Rule 2.33 of the United States District Court for the Northern District of Illinois. This is a core proceeding under 28 U.S.C. § 157(b)(2). The venue of this case and this Motion are proper under 28 U.S.C. § 1408 and 1409.

2. Yashica Spellman ("Debtor") filed a Chapter 13 case on August 24, 2016, ("Petition Date").

3. As of the Petition Date, the Creditor was the holder of a claim secured by the Property, more particularly described in the mortgage ("Mortgage"), a copy of which is attached as Exhibit "A".

4. The above described Mortgage was given to secure a promissory note, ("Note"), dated April 7, 2016 and made payable to the Creditor in the original sum of \$122,676.00. A copy of the Note is attached hereto as Exhibit "B".

5. The Creditor perfected an interest in the Property, more particularly described in the Mortgage, recorded in the Cook County Recorder's Office on April 21, 2016. Evidence of perfection is attached as Exhibit "A".

6. As of December 28, 2016, the outstanding principal of the Note was \$122,339.90 and the outstanding interest was \$2,640.74.

7. The Debtor is in default post-petition. A payment history is attached as Exhibit "1".

8. Said failure to make post petition mortgage payments constitutes sufficient grounds for relief from the automatic stay for cause pursuant to 11 U.S.C. §362(d)(1);

9. The Property is of inconsequential value and benefit to the estate. Cause exists to lift the automatic stay under 11 U.S.C. § 362(d)(1) and/or 362(d)(2) for these reasons:

- a. Debtor has no equity in the Property and the Property is not needed by the Debtor for its reorganization. Creditor believes that the Property has a value of \$120,000.00 based on Schedule D, which is attached hereto as Exhibit "C". The estimated principal balance is \$122,339.90 with additional interest estimated at \$2,640.74 and fees in the amount of \$49.00, totaling a secured claim of approximately \$125,029.64. After the costs of sale and payment of all liens on the Property, there will be effectively no equity in this Property. Based upon the lack of equity in the Property, Creditor asserts that the Property is burdensome and/or of inconsequential value and benefit to the estate.
- b. The Creditor is not being adequately protected. Per the Note and Mortgage, payments are applied to the last month due. Based on the foregoing, Debtor has failed to make periodic payments to Creditor since October 1, 2016, which unpaid payments less any funds being held in suspense are in the aggregate amount of \$4,237.60 through January 2017. As of January 1, 2017, Debtor was to have made 5 post petition payments. Debtor has only made 1 post petition payments. Debtor is delinquent 4 post petition payments.

10. The Movant requests that the Court order that Rule 4001(a)(3) is not applicable.

WHEREFORE, the Creditor prays for the entry of the attached Order Granting Relief from the Automatic Stay and the Trustee is hereby directed to halt disbursements to Creditor upon the filing of the Order Granting Relief from the Automatic Stay.

Respectfully submitted,

/s/ Sarah E. Barngrover

Todd J. Ruchman (6271827)

Keith Levy (6279243)

Sarah E. Barngrover (28840-64)

Adam B. Hall (0088234)

Edward H. Cahill (0088985)

Daniel C. Wolters (0076521)

Manley Deas Kochalski LLC

P.O. Box 165028

Columbus OH 43216-5028

614-220-5611; Fax: 614-627-8181

Attorneys for Creditor

The case attorney for this file is Todd J. Ruchman.

Contact email is

tjruchman@manleydeas.com

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Motion for Relief from the Automatic Stay (First Mortgage) was served on the parties listed below via e-mail notification:

U.S. Trustee, Patrick S. Layng, Office of the United States Trustee, Region 11, 219  
S. Dearborn Street, Room 873, Chicago, IL 60604

Tom Vaughn, 55 E. Monroe Street, Suite 3850, Chicago, IL 60603

David H. Cutler, Attorney for Yashica L Spellman, 4131 Main St., Skokie, IL 60076,  
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/s/ Sarah E. Barngrover